

Docket No.: 15588-00048-US
(PATENT)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:
Oemer Uensal et al.

Application No.: 10/584,957

Confirmation No.: 2248

Filed: August 1, 2007

Art Unit: 1766

For: PROTON-CONDUCTING MEMBRANE AND
USE THEREOF

Examiner: S. Fang

RESPONSE TO RESTRICTION REQUIREMENT

MS Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

In response to the restriction requirement set forth in the Office Action mailed November 23, 2011, applicant hereby provisionally elects claims 28-40, 42-48 and 55-58 (Group I) for continued examination, with traverse. For the elected species the applicant elect the cyclic species in claim 35 (the species of the first formula). The applicant believes that claims 28-40, 42-48 and 55-58 read on the elected species.

Applicant believes that the restriction requirement is not proper. It is noted in the PCT proceeding the European Examiner did not require a lack of unity between the original claims 1-27. The Examiner did not believe that there was a separate invention. See the international search report which indicates that all of the claims were examined and there was not a lack of unity. For this alone this restriction requirement should be withdrawn.

Additionally applicant respectfully traverses the Restriction requirement because the U.S. Patent and Trademark Office has not carried forward its burden of proof to establish distinctness.

In particular, MPEP § 803 states:

If the search and examination of an entire application can be made without serious burden, the Examiner must examine it on the merits, even though it includes claims to distinct or independent inventions.

The claims of the present invention would appear to be part of an overlapping search area.

Accordingly, Applicants respectfully traverse the outstanding Election requirement on the grounds that a search and examination of the entire application would not place a *serious* burden on the Examiner.

If the restriction requirement is not withdrawn, the applicant respectfully requests that when the claims are determined allowable that the Examiner rejoin the non-elected claims. Applicant believes no fee is due with this response. However, if a fee is due, please charge our Deposit Account No. 03-2775, under Order No. 15588-00048-US from which the undersigned is authorized to draw.

Dated: December 13, 2011

Respectfully submitted,

Electronic signature: /Ashley I. Pezzner/
Ashley I. Pezzner
Registration No.: 35,646
CONNOLLY BOVE LODGE & HUTZ LLP
1007 North Orange Street
P. O. Box 2207
Wilmington, Delaware 19899-2207
(302) 658-9141
(302) 658-5614 (Fax)
Attorney for Applicant